

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

MARSHA A. LANCASTER,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CIV-07-1430-M
	)	
MICHAEL J. ASTRUE,	)	
Commissioner of Social Security	)	
Administration,	)	
	)	
Defendant.	)	

**ORDER**

On September 29, 2008, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation in this action in which plaintiff seeks judicial review of the final decision of defendant Commissioner of Social Security Administration (“Commissioner”), denying plaintiff’s concurrent applications for disability insurance and supplemental security income benefits under Titles II and XVI of the Social Security Act, 42 U.S.C. §§ 416(i), 423, 1382. The Magistrate Judge recommended the Commissioner’s decision in this matter be affirmed. The parties were advised of their right to object to the Report and Recommendation by October 20, 2008. On that date, plaintiff filed her objection.

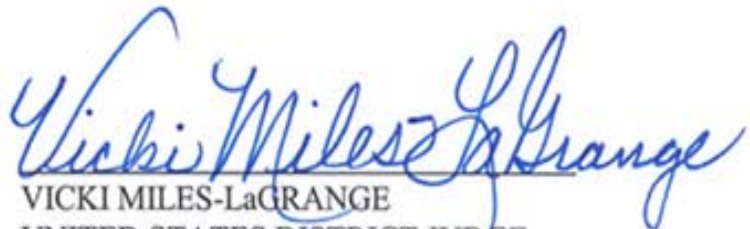
In her objection, plaintiff asserts that the Appeals Council was required to proffer clear and concise statements regarding its analysis of the new evidence provided by plaintiff. The Tenth Circuit, however, has held that such analysis is not required by the Appeals Council. *See Martinez v. Barnhart*, 444 F.3d 1201, 1207-08 (10<sup>th</sup> Cir. 2006) (“While an express analysis of the Appeals Council’s determination would have been helpful for purposes of judicial review; Mr. Martinez points to nothing in the statutes or regulations that would require such an analysis where new

evidence is submitted and the Appeals Council denies review. We therefore reject Mr. Martinez's contention that the Appeals Council erred by failing to specifically discuss [the new evidence].").

Accordingly, having carefully reviewed this matter de novo, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on September 29, 2008, and
- (2) AFFIRMS the decision of the Commissioner.

**IT IS SO ORDERED this 4<sup>th</sup> day of November, 2008.**

  
VICKI MILES-LaGRANGE  
UNITED STATES DISTRICT JUDGE